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In an appendix is a discussion of various obscenity laws and their interpretation in excluding sex-literature and works on kindred subjects from the mails.

The author inclines to the belief that the American judicial conception of obscene literature, adopted from the English, is altogether too warped and prejudiced. Quoting the California Court in an opinion giving the test to be applied in such cases: "Whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort may fall," the author gives the keynote of his argument on this subject.

"It will be observed," he says, "that it (a pamphlet figuring in the California case) was criminal, if in the hands of any one imaginary person it might be speculatively believed to be injurious, no matter how much it tended to improve the morals of the rest of mankind, nor how lofty were the motives of those accused, nor how true was that which they wrote. This is still the test of obscenity under our laws, and it has worked some results which could hardly have been in contemplation by our legislators in passing our laws against 'indecent' literature."

At the very least the book is a valuable work of reference for any library, being as it is, the crystallization of the free thought of the centuries. It shows a scholarly research and a quiet dignity of treatment and it might even be read with profit by those whose profession or tastes place them in a position to mould or influence that public opinion which should find expression in the country's laws.

C. K. W.

*History of Roman Private Law. Part I, Sources.* By E. C. Clark, LL.D. Regius Professor of Civil Law in the University of Cambridge; also of Lincoln's Inn, Barrister-at-law. Cambridge. 1906.

This is a small but closely written volume of the University Press classics style. Of its one hundred and sixty-eight pages seven contain an introduction, three a list of authors quoted, four a compact index. There are eight pages of tables of the Juristic Writers showing the date and period or reign in which they flourished, the offices they held and works they compiled.

The body of the book consists of concise critical notes on Primary Sources, such as Numa's books, *regiæ leges*, twelve tables,

edict and constitution and on the Secondary Sources. Of the latter of the Preliminary Period, he says p. 64: "According to the view here taken, it is to a combination of general tradition and individual family record—both probably fairly true in the main—that we may refer most part of the official restoration of early Republican history and the scanty notices of legal development therein preserved; all being, it is true, until after 300 B. C., under patrician custody and liable to patrician revision. . . . With regard to the main features of legal history, I do not see sufficient reason to question the general truth and approximately historical order, even of the account which has come down to modern times."

The Secondary Sources in the Literary Period are: 1. History; 2. General Literature; 3. Antiquarians, and 4. the Jurists. Of these the third is very valuable while the fourth is "our main source both of legal history and law." There is a short note on each writer in these four classes. Very little is said however by way of general conclusion or comparison of value. Consequently this volume would seem to be more useful by way of reference than as an independent treatment of sources.

In ten pages at the end is given a synoptical table of contents of what we may expect in the author's second volume, the *History itself of Roman Private Law*.  
E. C. W.

*Law, Its Origin, Growth and Function.* By James Coolidge Carter, LL.D., of the New York Bar. G. P. Putnam's Sons, New York. 1907.

These thirteen lectures were prepared to be given before the Harvard Law School in the spring of 1905. But the author's death prevented their delivery. At his request, however, they have been published by his executors. In execution the book possesses a good index but no table of contents nor any kind of guide to contents.

The main thesis of these lectures is that all law is custom. (That does not imply the converse that all custom is law. In fact, much of it is known as morality, etiquette, etc.) Previous definitions have been based on one of two ideas: 1. That law is "a body of rules proceeding from a supposed law of Nature," or 2. it is "the command of the supreme power in a State." But both are merely assumptions. The author proposes to study the fact—law—much after the manner of sociologists. Indeed, in his treat-